

COPY

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

OLIVIA Y., et al

PLAINTIFFS

vs

CIVIL ACTION NO. 3:04cv251LN

HALEY BARBOUR, et al

DEFENDANTS

**DEFENDANTS' RESPONSES TO PLAINTIFFS'
FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS**

COME NOW Haley Barbour, as Governor of the State of Mississippi, Donald Taylor as Executive Director of the Mississippi Department of Human Services and Billy Mangold, as Director of the Division of Family and Children's Services ("Defendants"), by and through their attorneys of record, and file their responses to Plaintiff's First Requests for Production of Documents, as follows:

General Objections

Defendants object to the Requests for Production of Documents propounded by the Plaintiffs to the extent that these discovery requests seek information or documents not in the custody of or control of Defendants. Defendants further object to these discovery requests to the extent that such request solicit documents related to the purported Protective Services Class and In-Custody Class identified in the Amended Complaint, the related claims of the purported class members and documents requested in support of all claims dismissed from this action by order of the Court dated November 19, 2004.

Defendants object to requests for the production of documents which are unrelated to the claims of the named Plaintiffs remaining in this action, and those requests for documents which identify children who are in the custody of the State of Mississippi and who are not Plaintiffs in



this case and who are not represented by Plaintiffs' counsel or any other legal representative or "Next Friend" to whom such information may be produced. Any information regarding children in the custody of the Mississippi Department of Human Services is protected from disclosure pursuant to Miss. Code Ann. § 43-21-251 and § 43-21-261 and any other applicable state or federal laws that protect the personal, medical and educational records of children who are in the custody of the Mississippi Department of Human Services.

By producing documents in response to Plaintiffs' discovery, Defendants do not admit to the relevance or admissibility of the same.

Without waiving objections, Defendants respond as follows:

Document Request No. 1: Any and all documents in your possession, custody or control relating to each of the named plaintiffs for the entire time that they have been known to DHS, including but not limited to, case files and other records created or maintained by DHS, and any public or private agencies that have contracted with DHS to provide child welfare services or that otherwise provide such services.

Response No. 1. Defendants will produce all such documents relating to the named Plaintiffs in accordance with the Amended Case Management Order issued by the Court on December 17, 2004.

Document Request No. 2: All written policies, procedures and directives in your possession, custody or control, issued by DPCS at the state and regional level and in effect as of March 30, 2004, or thereafter, that relate to protecting and providing services to children in DHS custody, including but not limited to such policies, procedures and directives regarding:

- a. Taking children into DHS custody.
- b. Assessing children taken into DHS custody.
- c. Selecting placements for children taken into DHS custody.
- d. Placing children in DHS custody with relatives.
- e. Placing children in DHS custody in settings that have not been licensed by DHS.
- f. Providing foster care and case management services.
- g. Reporting, receiving, memorializing, screening and processing reports of abuse or neglect of children in DHS custody.
- h. Investigating reports of abuse and neglect of children in DHS custody.
- i. Referring reports of abuse and neglect of children in DHS custody to the Youth Court.

- j. Evidencing or substantiating reports of abuse or neglect of children in DHS custody.
- k. Selecting a permanency goal (e.g. reunification, permanent relative placement, adoption, emancipation).
- l. Legally freeing children for adoption.
- m. Placing children in adoptive homes.
- n. Monitoring compliance with all state and federal laws, rules, regulations and policies governing the provision of child welfare services to children in DHS custody.

Response No. 2: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants previously produced the current Mississippi Department of Human Services, Division of Family and Children's Services Policy and Procedures Manual. Defendants will supplement this production in the event DFCS institutes additional policies and procedures.

Document Request No. 3: All current organizational charts for DHS and DFCS in your possession, custody or control, listing job titles and names of persons who hold those titles.

Response No. 3: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following: Organizational Charts; Social Services Employee Reports; Termination/Resignation Charts; Personnel Action Log; Hiring Ratio Charts; Workloads; Staffing; Population; and Workers Needed (DHS Bates No. 019700-020100).

Document Request No. 4: All documents in your possession, custody or control, reflecting or concerning the data elements currently capable of being input into MACWIS and all documents reflecting all types of reports that MACWIS is currently capable of generating.

Response No. 4: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the chart of MACWIS-generated reports (Bates No. DHS 020101-020109).

Document Request No. 5: All documents in your possession, custody or control, regarding problems and/or inaccuracies in MACWIS data such as described on pages 22-23 of the Self-Assessment and all documents regarding efforts to address those problems and/or inaccuracies.

Response No. 5: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) Memo from United States Department of Human Services (USDHS) Administration for Children and Family Relations relating to Review of NCANDS Child and Agency Files, Data Year 2002 with enclosures, dated August 27, 2003 (Bates No. DHS 001131-001158);
- 2) Service Request Completion Checklist enclosing report by National Resource Center for Information Technology in Child Welfare, Service Request 20980 (Bates No. DHS 01159-001184);
- 3) AFCARS Foster Care Data Compliance Detailed Report, March 2003 (Bates No. DHS 001185-001275);
- 4) AFCARS Foster Care Data Compliance Detailed Report, September 2003 (Bates No. DHS 001276-001369);

5) AFCARS Foster Care Data Compliance Detailed Report, March 2004 (Bates No. DHS 001370-001465);

6) AFCARS Foster Care Data Compliance Detailed Report September 2004 (Bates No. DHS 001466-001563).

Document Request No. 6: All documents in your possession, custody or control regarding the progress in achieving full MACWIS integration into county casework such as described on page 22 of the Self-Assessment.

Response No. 6: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) All such documents produced in Response to Document Request No. 5 above;
and
- 2) The MACWIS Technical Workplan for Changes and Enhancements Report from November 18, 2004-January 9, 2005 (Bates No. DHS 020110-020127).

Document Request No. 7: All regular or ad hoc management reports in your possession, custody or control, generated by MACWIS including but not limited to:

- a. Aggregate reports detailing regional and state data totals, such as discussed on page 21 of the Self-Assessment.
- b. Reports provided to the Quality Improvement Unit, the Foster Care Review Staff and Regional Directors.
- c. Monthly and quarterly reports generated for purposes of corrective action and system evaluation, including but not limited to reports concerning monthly contacts by caseworkers with foster children and the provision of medical care to foster children, such as described on page 49 of the Self-Assessment.
- d. Reports that identify children who have been in the custody of DHS 15 out of the last 22 months.
- e. Reports reflecting the number of abuse and neglect investigations that have been undertaken, including any reports that identify the number of investigations on in DHS custody.
- f. Custody Contact, Open Investigations and Permanency Reports.

Response No. 7: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) Dormant Cases - No Activity for 6 Months or More - Summary by Region (Bates No. DHS 005837-005842);
- 2) MDES Abuse & Neglect Intake Report - Summary (Bates No. DHS 006266-006298);
- 3) MDHS Adult Abuse & Neglect Intake Report - Summary (Bates No. DHS 006299-006408);
- 4) MDHS Child Abuse & Neglect Intake Report - Summary (Bates No. DHS 006409-006518);
- 5) MDHS Custody Contact Report - Summary (Bates No. DHS 007620-007637);
- 6) Investigations Open More Than 30 Days - ANE Child Only Records - Summary (Bates No. DHS 008381, DHS 008382, DHS 008384, DHS 008387, DHS 008388, DHS 008390, DHS 008392, and DHS 008394-008417);
- 7) Investigations Open More Than 30 Days - ANE Adult Only Records - Summary (Bates No. DHS 008383, DHS 008385, DHS 008386, DHS 008389, DHS 008391, DHS 008393, and DHS 008418-008432);
- 8) Request for Reimbursement of Family & Children Services Funds - Summary (Bates No. DHS 0018015-018549);
- 9) Listing of Children with Eligibility Status - Summary (Bates No. DHS 018550-0018553);

- 10) Listing of Children with Eligibility CWS – Summary (Bates No. DHS 018990);
- 11) Listing of Children with Eligibility IVE – Summary (Bates No. DHS 019004 and DHS 019026);
- 12) Count of Maltreated Children while in Custody in a Placement – Summary (Bates No. DHS 019057 and DHS 019059);
- 13) Summary of Maltreated Children while in Custody in a Placement – Summary (Bates No. DHS 019058 and DHS 019060);
- 14) Avg. Length of Time between Court Custody and Adoption Finalization – Summary (Bates No. DHS 019061-019068);
- 15) Social Services Block Grant ("SSBG") Programmatic Reporting Worksheet – Summary (Bates No. DHS 019069-019072);
- 16) Summary of Children in Custody by Age, Race and Sex – Summary (Bates No. DHS 019073-019076);
- 17) Listing of Children Freed for Adoption – Summary (Bates No. DHS 019077-019091);
- 18) Children who are Legally Free for Adoption – Summary (Bates No. DHS 019092-019094);
- 19) Adoption Cash Requirement Journal – Summary (Bates No. DHS 020537-020540);
- 20) Adoption Assistance SAAS Interface Journal Voucher – Summary (Bates No. DHS 020541-020544);
- 21) Children with Court Ordered TPR Request – Summary (Bates No. DHS 020545-020564);

- 22) Open Custody Cases: Length of Time Open – Summary (Bates No. DHS 020736-021025 and DHS 021040-021136);
- 23) Closed Summary Page – Summary (Bates No. DHS 021026-021028 and DHS 021137);
- 24) Children without Social Security Number – Summary (Bates No. DHS 021138-021139);
- 25) List of Active Incoming ICPC Direct Services – Summary (Bates No. DHS 021220-021221);
- 26) Children with Re-Entries into Care – Summary (Bates No. DHS 021301-021303);
- 27) Number of Children Entering State Custody & Their Permanency Plan – Summary (Bates No. DHS 021378-021655);
- 28) Independent Living Report for Children Over 14 in Custody – Summary (Bates No. DHS 021656);
- 29) Stability of Foster Care Placements/Emergency Shelter Care – Summary (Bates No. DHS 022007-022020);
- 30) Adult Abuse & Neglect Intake Report – Summary (Bates No. DHS 022608-022717);
- 31) Child Abuse & Neglect Intake Report – Summary (Bates No. DHS 022718-022846);
- 32) Abuse & Neglect Intake Report – Summary (Bates No. DHS 022847-022956);
- 33) Number of Placements for Children in Active Custody – Summary (Bates No. DHS 023226-023265);

- 34) Number of Children in Placement by Placement Type – Summary (Bates No. DHS 023623-023642);
- 35) Summary of Children in Placement by Placement Type – Summary (Bates No. DHS 023643-023648);
- 36) Number of Children Leaving State Custody and Their Outcome – Summary (Bates No. DHS 023740-024253);
- 37) Prevention Cases Region Summary (Bates No. DHS 024254-024289);
- 38) Protection Cases Region Summary (Bates No. DHS 024290-024325);
- 39) Performance Measure Data for Fiscal Year 2005 – Summary (Bates No. DHS 024326-024329);
- 40) Support Services Count, Lists of Support Services with Recipients Count and Dollars Spent – Summary (Bates No. DHS 024330-024335);
- 41) Child Investigation Timeliness Report – Summary (Bates No. DHS 024336-024342, DHS 024351-022413, and DHS 024668-025332); and
- 42) Adult Investigation Timeliness Report – Summary (Bates No. DHS 024343-024350, DHS 024414-024485, and DHS 025333-025728).

Furthermore, in addition to the above stated objections, Defendants object to the Request because it seeks the production of information regarding minors who are in the custody of the Mississippi Department of Human Services but who are not plaintiffs in the instant litigation and are not represented by Plaintiffs' counsel or any other legal representative or "Next Friend" to whom such information may be produced. Any information regarding children in the custody of the Mississippi Department of Human Services is protected from disclosure pursuant to Miss. Code Ann. § 43-21-251 and § 43-21-261 and any other applicable state or federal laws that

protect the personal, medical and educational records of children who are in the custody of the Mississippi Department of Human Services.

Without waiving objections, Defendants will identify the following documents without producing documents in which any non-Plaintiff children are named:

- 1) MDHS Listing of Children Currently in Custody with Conference Report Date More Than 6 Months – Detail (Bates No. DHS 001565-001624);
- 2) MDHS Pending Conference Reviews – Detail (Bates No. DHS 001625-003433);
- 3) MDHS Children Leaving Custody – Detail (Bates No. DHS 003435-003617);
- 4) Listing of Children Currently in Custody – Detail (Bates No. DHS 003618-004053, DHS 004055-005242);
- 5) Active Cases Without Active ISP – Detail (Bates No. DHS 005243-005836);
- 6) Dormant Cases - No Activity for 6 Months or More – Detail (Bates No. DHS 005843-006265);
- 7) ASFA Compliance Report – Children Who Have Been in Custody for 15 or More of the Past 22 Months – Detail (Bates No. DHS 006519-006961, DHS 006963-007152, DHS 007154-007247, DHS 007249-007340, DHS 007342-007433, DHS 007435-007526, and DHS 007528-007619);
- 8) ASFA Compliance Report - Custody that could not be processed correctly -- Detail (Bates No. DHS 006862, 006962, 007153, 007248, 007341, 007434, and 007527);
- 9) MDHS Custody Contact Report – Detail (Bates No. DHS 007638-008380);
- 10) Investigations Open More Than 30 Days - ANE Child Only Records – Detail (Bates No. DHS 008433-009450 and DHS 009588-009739);

- 11) Investigations Open More Than 30 Days - ANE Adult Only Records - Detail (Bates No. DHS 009451-009587 and DHS 009740-009875);
- 12) Request for Reimbursement of Family & Children Services Funds - Detail (Bates No. DHS 017424-0018014);
- 13) Listing of Children with Eligibility Status - Detail (Bates No. DHS 0018554-018989);
- 14) Listing of Children with Eligibility CWS - Detail (Bates No. DHS 018991-019003);
- 15) Listing of Children with Eligibility IVE - Detail (Bates No. DHS 019005-019025 and DHS 019027-019056);
- 16) Children who are Legally Free for Adoption - Detail (Bates No. DHS 019095-019149);
- 17) Adoptive Home Payment Register - Detail (Bates No. DHS 020128-020536);
- 18) Children with Court Ordered TPR Requests - Detail (Bates No. DHS 020565-020723);
- 19) Open Custody Cases: Summary & Exception Report - Detail (Bates No. DHS 020724-020735 and DHS 021029-021039);
- 20) Children in Custody without Valid Social Security Number - Detail (Bates No. DHS 021140-021217);
- 21) Active Incoming ICPC for other than Household Member or Inactive Case - Detail (Bates No. DHS 021218-021219);
- 22) List of Active Incoming ICPC Direct Services - Detail (Bates No. DHS 021222-021300);

- 23) Children with Re-Entries into Care – Detail (Bates No. DHS 021304-021377);
 - 24) Independent Living Report for Children Over 14 in Custody – Detail (Bates No. DHS 021657-021744);
 - 25) Stability of Foster Care Placements/Emergency Shelter Care – Detail (Bates No. DHS 021745-022006);
 - 26) List of Placement Services – Detail (Bates No. DHS 022021-022071);
 - 27) List of Preventive/Protective – Detail (Bates No. DHS 022072-022134);
 - 28) Listing of Active Placement Children Age 14 & Older – Detail (Bates No. DHS 022135-022540);
 - 29) Listing of Children Age 14 & Older who Left Custody – Detail (Bates No. DHS 022541-022607);
 - 30) Children in Custody 14 & Over, 12th Grade & Higher – Detail (Bates No. DHS 022957-023225);
 - 31) List of Direct Services – Detail (Bates No. DHS 023266-023363);
 - 32) Listing of Open Cases – Detail (Bates No. DHS 023364-023426);
 - 33) Listing of Closed Cases – Detail (Bates No. DHS 023427-023497);
 - 34) Listing of Children 17 Years & 6 Months – Detail (Bates No. DHS 023498-023622);
 - 35) Children with Custody-Case-Placement Errors – Detail (Bates No. DHS 023649-023739);
 - 36) Child Investigation Timeliness Report – Detail (Bates No. DHS 024668-025332);
 - 37) Adult Investigation Timeliness Report – Detail (Bates No. DHS 025333-025728);
- and

38) Investigations with Narrative Errors – Detail (Bates No. DHS 024486-024667).

Furthermore, without waiving objections, Defendants will produce the following documents that relate to the named Plaintiffs:

1) MDHS Pending Conference Review (Bates No. DHS 001704, DHS 001951, DHS 002141, DHS 002536, DHS 002858, and DHS 003177 relative to John A.; Bates No. DHS 001710, DHS 001957, DHS 002213, DHS 002544, DHS 002545, DHS 002865, DHS 003185, and DHS 003186 relative to the W Children; Bates No. DHS 001964, DHS 002217, DHS 002548, DHS 002870, and DHS 003190 relative to Cody B.; Bates No. DHS 002134, DHS 002457, DHS 002782, and DHS 003098 relative to Jamison J.; and Bates No. DHS 003107 relative to Olivia Y.);

2) Listing of Children Currently in Custody (Bates No. DHS 003624, DHS 003734, DHS 003843, DHS 004061, DHS 004168, DHS 004274, DHS 004381, DHS 004490, DHS 004598, DHS 004708, DHS 004818, DHS 004925, DHS 005033, and DHS 005140 relative to Jamison J.; Bates No. DHS 003636, DHS 003745, DHS 003854, DHS 003964, DHS 004073, DHS 004180, DHS 004286, DHS 004394, DHS 004502, DHS 004611, DHS 004720, DHS 004830, DHS 004937, DHS 005045, and DHS 005152 relative to John A.; Bates No. DHS 003655, DHS 003764, DHS 003872, DHS 003982, DHS 004090, DHS 004091, DHS 004197, DHS 004303, DHS 004410, DHS 004518, DHS 004627, DHS 004736, DHS 004847, DHS 004954, DHS 005060, and DHS 005169 relative to the W Children; Bates No. DHS 003665, DHS 003773, DHS 003882, DHS 003953, DHS 003990, DHS 004099, DHS 004206, DHS 004312, DHS 004419, DHS 004527, DHS 004637, DHS 004746, DHS 004857, DHS 004964, DHS 005069, and DHS 005178 relative to Cody B.; and Bates No. DHS 004290, DHS 004398,

DHS 004506, DHS 004615, DHS 004724, DHS 004834, DHS 004941, DHS 005047, and DHS 005154 relative to Olivia Y.);

3) ASFA Compliance Report - Children Who Have Been in Custody for 15 or More of the Past 22 Months (Bates No. DHS 006560, DHS 006731, DHS 006886, DHS 006984, DHS 007080, DHS 007176, DHS 007270, DHS 007363, DHS 007456, and DHS 007549 relative to Jamison J.; Bates No. DHS 006646, DHS 006817, DHS 006933, DHS 007030, DHS 007125, DHS 007221, DHS 007315, DHS 007410, DHS 007501, and DHS 007595 relative to John A.; Bates No. DHS 006685, DHS 006856, DHS 006958, DHS 007054, DHS 007149, DHS 007244, DHS 007338, DHS 007431, DHS 007524, DHS 007616, and DHS 007617 relative to the W Children; Bates No. DHS 007519 and DHS 007612 relative to Cody B.; and Bates No. DHS 007594 relative to Olivia Y.);

4) MDHS Custody Contact Report (Bates No. DHS 007662, DHS 007877, DHS 007983, DHS 008091, DHS 008196, and DHS 008300 relative to Jamison J.; Bates No. DHS 007711, DHS 007821, DHS 007926, DHS 008032, and DHS 008140 relative to John A.; Bates No. DHS 007715, DHS 007825, DHS 007930, DHS 008034, DHS 008142, DHS 008242, and DHS 008349 relative to Olivia Y.; Bates No. DHS 007742, DHS 007850, DHS 007955, DHS 008062, DHS 008168, DHS 008270, and DHS 008377 relative to the W Children; and Bates No. DHS 008371 relative to Cody B.);

5) Request for Reimbursement of Family & Children Services Funds (Bates No. DHS 017443 and DHS 017830 relative to the W Children; and Bates No. DHS 017447, DHS 017743, and DHS 017837 relative to Cody B.);

6) Listing of Children with Eligibility Status (Bates No. DHS 018560, DHS 018669, DHS 018778, and DHS 018887 relative to Jamison J.; Bates No. DHS 018572, DHS 018681,

DHS 018790, and DHS 018899 relative to John A.; Bates No. DHS 018576, DHS 018685, DHS 018794, and DHS 018903 relative to Olivia Y.; Bates No. DHS 018592, DHS 018701, DHS 018810, and DHS 018919 relative to the W Children; and Bates No. DHS 018598, DHS 018707, DHS 018816, and DHS 018924 relative to Cody B.);

7) Listing of Children with Eligibility CWS (Bates No. DHS 018991 relative to John A. and Bates No. DHS 019003 relative to the W Children);

8) Listing of Children with Eligibility IVE (Bates No. DHS 019014 and DHS 019040 relative to Jamison J. and Bates No. DHS 019056 relative to Olivia Y.);

9) Children who are Legally Free for Adoption -- Detail (Bates No. DHS 019099, DHS 019100, DHS 019103, DHS 019105, DHS 019118, DHS 019120, DHS 019122, DHS 019135, DHS 019136, DHS 019139, and DHS 019141 relative to the W Children; Bates No. DHS 019106, DHS 019124, and DHS 019142 relative to John A.; and Bates No. DHS 019112, DHS 019130, and DHS 019148 relative to Jamison J.);

10) Adoptive Home Payment Register (Bates No. DHS 020533 and DHS 020534 relative to the W Children);

11) Children with Court Ordered TPR Requests (Bates No. DHS 020582, DHS 020658, and DHS 020721 relative to Cody B.);

12) Independent Living Report for Children Over 14 in Custody (Bates No. DHS 021678 relative to Jamison J. and DHS 021725 relative to John A.); and

13) Listing of Active Placement Children Age 14 & Older (Bates No. DHS 022140, DHS 022222, DHS 022305, DHS 022386, and DHS 022467 relative to Jamison J. and Bates No. DHS 022151, DHS 022233, DHS 022316, DHS 022397, and DHS 022477 relative to John A.).

Document Request No. 8: All internal and external assessments, audits, evaluations or reviews of DPCS operations and practice in your possession, custody or control, including but

not limited to documents generated by the Quality Improvement Unit, 6-month reviews, Peer reviews, Program Integrity Unit reviews and all documents regarding any response, corrective action or "action plan" requested or undertaken in relation to those assessments, audits, evaluations and reviews.

Response No. 8: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) State Quarterly Report In-Home Cases for Quarter 3, FY 2002-2003 (Bates No. DHS 009876-009902);
- 2) State Quarterly Report In-Home Cases for Quarter 4, FY 2002-2003 (Bates No. DHS 009903-009948);
- 3) State Report-Prevention/Protection Cases for Quarter 1, FY 2003-2004 (Bates No. DHS 009949-009973);
- 4) State Quarterly Report Quality Improvement for Quarter 3, FY 2003-2004 (Bates No. DHS 009974-010015);
- 5) Region 1E Year End Quality Improvement Report for FY 2003-2003 (Bates No. DHS 010016-010079);
- 6) Region 1E Quality Improvement Report for Quarter 1, FY 2004-2005 (Bates No. DHS 010080-010142);
- 7) Region 1E Quality Improvement Report for Quarter 2 FY 2004-2005 (Bates No. DHS 010143-010206);
- 8) Regions 1E, 1W, II and IV Quality Improvement Report for Quarter 1 FY 2004-2005 (Bates No. DHS 010207-010241);

- 9) Regions 1E, 1W, II and IV Quality Improvement Report for Quarter 2 FY 2004-2005 (Bates No. DHS 010242-010276);
- 10) Homestead 2002 End of Year Report (Bates No. DHS 025729-025752);
- 11) Project Homestead Peer Review 2003 Report (Bates No. DHS 025753-025775);
- 12) Mississippi Permanency Partnership Network Project Homestead Peer Review (Bates No. DHS 025776-025778);
- 13) Title IV-E Foster Care Eligibility Review for the Period April 1, 2002-September 30, 2002 (Bates No. DHS 019150-019152); and
- 14) Quality Improvement Report: Regional Comparison I East, I West, II & IV Mid-Year Report (Bates No. DHS 019153-019257).

Mississippi Department of Human Services maintains six-month reviews of children in the State's custody. However, in addition to the above stated objections, Defendants object to the Request because it seeks the production of information regarding minors who are in the custody of the Mississippi Department of Human Services but who are not plaintiffs in the instant litigation and are not represented by Plaintiffs' counsel or any other legal representative or "Next Friend" to whom such information may be produced. Any information regarding children in the custody of the Mississippi Department of Human Services is protected from disclosure pursuant to Miss. Code Ann. § 43-21-251 and § 43-21-261 and any other applicable state or federal laws that protect the personal, medical and educational records of children who are in the custody of the Mississippi Department of Human Services.

Without waiving objections, Defendants will identify the following documents without producing documents in which any non-Plaintiff children are named:

1) Periodic Administrative Determination on Children in State's Custody (Bates No. DHS 010277-013827).

Further, without waiving objections, Defendants will produce the following documents that relate to the named Plaintiffs:

1) Periodic Administrative Determination on Children in State's Custody (Bates No. DHS 010349, DHS 0012202, and DHS 013651 relative to Olivia Y.);

2) Periodic Administrative Determination on Children in State's Custody (Bates No. 010582 and DHS 012473 relative to Jamison J.);

3) Periodic Administrative Determination on Children in State's Custody (Bates No. 010605 and DHS 012439 relative to Cody B.);

4) Periodic Administrative Determination on Children in State's Custody (Bates No. 010687 and DHS 012415 relative to John A.); and

5) Periodic Administrative Determination on Children in State's Custody (Bates No. 010847 and DHS 012363 relative to the W Children).

Document Request No. 9: All reports in your possession, custody or control of case planning non-compliance issues generated by the Foster Care Review Program Administrator such as discussed on page 27 of the Self-Assessment and all responses to those reports, including but not limited to all responses from Regional Directors.

Response No. 9: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Furthermore, Defendants object to the Request because it seeks the production of information regarding minors who are in the custody of the Mississippi Department of Human Services but who are not plaintiffs in the instant litigation and are not represented by Plaintiffs' counsel or any other legal representative or "Next Friend" to whom such information may be

produced. Any information regarding children in the custody of the Mississippi Department of Human Services is protected from disclosure pursuant to Miss. Code Ann. § 43-21-251 and § 43-21-261 and any other applicable state or federal laws that protect the personal, medical and educational records of children who are in the custody of the Mississippi Department of Human Services.

Without waiving objections, Defendants will identify the following documents without producing documents in which any non-Plaintiff children or adults are named:

- 1) Non-Compliance Issues Report (Bates No. DHS 013828-014298);
- 2) Foster Care Review Summary Report Issues in Foster Children's Cases Year 2002 (Bates No. DHS 026154-026555);
- 3) Foster Care Review Summary Report Issues in Foster Children's Cases Year 2002 (Bates No. DHS 026556-026913); and
- 4) Foster Care Review Summary Report Issues in Foster Children's Cases Year 2003 (Bates No. DHS 026914-027355).

Further, without waiving objections, Defendants will produce the following documents that relate to the named Plaintiffs:

- 1) Non-Compliance Issues Report (Bates No. DHS 013905, DHS 013909, and DHS 014289 relative to Olivia Y.);
- 2) Non-Compliance Issues Report (Bates No. DHS 014129 relative to John A.); and
- 3) Foster Care Review Summary Report, Issues in Foster Care Children's Cases (Bates No. DHS 026217, DHS 026626, and DHS 027303 relative to John A.).

Document Request No. 10: All reports in your possession, custody or control regarding the frequency of court reviews for children in DHS custody, including but not limited to Title IV-B Eligibility reviews.

Response No. 10: Defendants do not maintain reports compiled in the form requested by Document Request No. 10.

Document Request No. 11: All reports in your possession, custody or control regarding the number of children in DHS custody who were not provided a periodic case review at least once every six month.

Response No. 11: See Objections and Response to Document Request No. 5.

Document Request No. 12: All "Quality Assurance reports" in your possession, custody or control; including but not limited to the reports that are "consistent with" the Child and Family Service Review, such as discussed on page 43 of the Self-Assessment.

Response No. 12: See Objections and Response to Document Request No. 8.

Document Request No. 13: The Mississippi State Advisory Board's Annual Assessment of DFCS provided outcome data for each year from 2000 to present.

Response No. 13: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the State Level Citizens Review Board DFCS Five-Year Plan Review and Recommendations May, 2004 (Bates No. DHS 019264-019271).

Document Request No. 14: Every report of "foster care review deficiencies" such as described on page 47 of the Self-Assessment.

Response No. 14: See Objections and Response to Document Request No. 9.

Document Request No. 15: All documents in your possession, custody or control prepared for, concerning or generated by all Statewide Assessment focus groups convened in preparation for the Self-Assessment or thereafter.

Response No. 15: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) Memorandum to Gloria Salters and Wanda Gillom from Diana Hiott, dated June 28, 2003, Subject - Focus Groups Needed for the Statewide Assessment (Bates No. DHS 014770-014771);
- 2) Memorandum to Wanda Gillom, Deputy Director of Programs from Robert Hamrick, Program Administrator Sr., dated July 9, 2003, Subject - Focus Group (Bates No. DHS 014772);
- 3) Memorandum to Wanda Gillom, Deputy Director of Programs from Robert Hamrick, Program Administrator Sr., dated July 10, 2003, Subject- Foster Care Review Focus Group (Bates No. DHS 014773);
- 4) Memorandum to John W. O'Bryant, Region IV, et al. from Wanda Gillom, Deputy Director of Division of Family and Children's Services, dated July 17, 2003, Subject - Focus Group (Bates No. DHS 014774); and
- 5) Agenda - Quality Assurance Focus Group dated July 29, 2003 (Bates No. DHS 014775).

Document Request No. 16: All documents in your possession, custody or control prepared for, concerning or generated by any Service Array Assessment, such as described on page 69 of the Self-Assessment.

Response No. 16: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) Adams County Service Array Documents (Bates No. DHS 027356-027459);

- 2) Service Array Review: Benton County, Mississippi (Bates No. DHS 027460-027492);
- 3) Service Array Review: DeSoto County, Mississippi (Bates No. DHS 027493-027537);
- 4) Humphreys County Service Array Documents (Bates No. DHS 027538-027594);
- 5) Humphreys County Service Array Documents (Bates No. DHS 027595-027652);
- 6) The Service Array in Child Welfare: A Process for Assessment and Resource Development (for Hancock County) (Bates No. DHS 027653-027751);
- 7) The Service Array in Child Welfare: A Process for Assessment and Resource Development (for Hancock County) (Bates No. DHS 027752-027796);
- 8) Grenada County Service Array Documents (Bates No. DHS 027797-027846);
- 9) Hinds County Service Array Documents (Bates No. DHS 027847-027883);
- 10) Itawamba County Service Array Documents (Bates No. DHS 027884-027925);
- 11) Lauderdale County Service Array Documents (Bates No. DHS 027926-027957);
- 12) Lee County Service Array Documents (Bates No. DHS 027958-028077);
- 13) Leflore County Service Array Documents (Bates No. DHS 028078-028115);
- 14) Madison County Service Array Documents (Bates No. DHS 028116-028159);
- 15) The Service Array in Child Welfare: A Process for Assessment and Resource Development (for Marion County) (Bates No. DHS 028160-028202);
- 16) Neshoba County Service Array Documents (Bates No. DHS 028203-028242);
- 17) The Service Array in Child Welfare: A Process for Assessment and Resource Development (for Pearl River County) (Bates No. DHS 028243-028287);
- 18) Quitman County Service Array Documents (Bates No. DHS 028288-028332);

- 19) Stone County Service Array Documents (Bates No. DHS 028333-028372);
- 20) Warren County Service Array Documents (Bates No. DHS 028373-028404); and
- 21) Yazoo County Service Array Reports (Bates No. DHS 028405-028443).

Document Request No. 17: Any Annual Assessments conducted by the Homestead Peer Committee.

Response No. 17: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) An email to CBCAP Lead Agencies (Bates No. DHS 019466-019468);
- 2) Community-Based Child Abuse Prevention Annual Performance Report for FY 2004 (Bates No. DHS 019469-019521);
- 3) Community-Based Child Abuse Prevention Annual Performance Report FY 2003 (Bates No. DHS 019522-019595); and
- 4) Community-Based Family Resource and Support Annual Performance Report FY 2002 (Bates No. DHS 019596-019671).

Document Request No. 18: Any adoption disruption assessment, such as discussed on page 81 of the Self-Assessment.

Response No. 18: Defendants are unsure what Plaintiffs are requesting in Document Request No. 18; Page 81 of the Self-Assessment does not reference adoption disruption assessments.

Document Request No. 19: Any Adoptive Families Recruitment Plan Assessment, such as discussed on pages 113-114 of the Self-Assessment.

Response No. 19: Defendants do not maintain records compiled in the form requested in Document Request No. 19.

Document Request No. 20: The Foster Care Reviewers Monthly Activity Reports.

Response No. 20: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Furthermore, Defendants object to the Request because it seeks the production of information regarding minors who are in the custody of the Mississippi Department of Human Services but who are not plaintiffs in the instant litigation and are not represented by Plaintiffs' counsel or any other legal representative or "Next Friend" to whom such information may be produced. Any information regarding children in the custody of the Mississippi Department of Human Services is protected from disclosure pursuant to Miss. Code Ann. § 43-21-251 and § 43-21-261 and any other applicable state or federal laws that protect the personal, medical and educational records of children who are in the custody of the Mississippi Department of Human Services.

Without waiving objections, Defendants will produce the following documents with the names of children who are not plaintiffs in this instant action redacted:

- 1) Foster Care Reviewers' Monthly Activity Reports 2002 (Bates No. DHS 014776-014892);
- 2) Foster Care Reviewers' Monthly Activity Reports 2003 (Bates No. DHS 014893-015002); and
- 3) Foster Care Reviewers' Monthly Activity Reports 2004 (Bates No. DHS 015003-015137).

Document Request No. 21: All documents in your possession, custody or control, reflecting the turnover and vacancy rates for DFCS caseworkers, managers and supervisors.

Response No. 21: See Objections and Response to Document Request No. 3.

Document Request No. 22: All documents in your possession, custody or control concerning DFCS caseworker caseloads, staffing to census ratios, and adequate staffing estimates, such as discussed on pages 12-15 of the Self-Assessment.

Response No. 22: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) All such documents produced in Response to Document Request No. 3 above;
and
- 2) Direct Service Cases by County (Bates No. DHS 015138-017230).

Document Request No. 23: All documents in your possession, custody or control regarding staffing cutbacks, hiring freezes or temporary assignments at DFCS.

Response No. 23: See Objections and Response to Document Request No. 3.

Document Request No. 24: All documents in your possession, custody or control reflecting the number of children in DHS custody freed for adoption, including the numbers broken down by county.

Response No. 24: See Objections and Response to Document Request No. 7.

Document Request No. 25: All documents in your possession, custody or control reflecting the number of adoptions of children in DHS custody that have been finalized, including the numbers broken down by county.

Response No. 25: See Objections and Response to Document Request No. 5.

Document Request No. 26: All documents in your possession, custody or control reflecting the number of placement moves experienced by children in DHS custody, including the numbers broken down by county.

Response No. 26: See Objections and Response to Document Request No. 7.

Document Request No. 27: All documents in your possession, custody or control reflecting the most current listing of licensed or approved placements for children in DHS custody, whether provided by DHS, other public agencies or by private agencies with which Defendants contract, including the agency providing such placements, the level of care provided by such placements, the location of the placements, the date the placements were licensed or

approved, the number of children approved to be placed in these placements and the number and ages of foster children actually placed in these placements.

Response No. 27: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) Licensed Foster Homes (Bates No. DHS 019272-019440); and
- 2) MDHS/DFCS Licensed Facilities and Services, Residential Child Caring Facilities, Child Placing Agencies (Bates No. DHS 019441-019465).

Document Request No. 28: All documents in your possession, custody or control reflecting the placement of children in DHS custody in unlicensed homes or facilities.

Response No. 28: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Defendants do not place children in unlicensed homes or facilities unless ordered to do so by the Youth Courts of Mississippi. Defendants do not maintain any records compiled in the form requested by Document Request No. 28.

Document Request No. 29: All documents in your possession, custody or control concerning children in DHS custody who are awaiting new foster placements, certain specific placements or certain types of placements, such as therapeutic foster home placements, including but not limited to logs and wait lists.

Response No. 29: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Furthermore, Defendants object to the Request because it seeks the production of information regarding minors who are in the custody of the Mississippi Department of Human

Services but who are not plaintiffs in the instant litigation and are not represented by Plaintiffs' counsel or any other legal representative or "Next Friend" to whom such information may be produced. Any information regarding children in the custody of the Mississippi Department of Human Services is protected from disclosure pursuant to Miss. Code Ann. § 43-21-251 and § 43-21-261 and any other applicable state or federal laws that protect the personal, medical and educational records of children who are in the custody of the Mississippi Department of Human Services.

Without waiving objections, Defendants will identify the following documents without producing documents in which any non-Plaintiff children are named:

- 1) Therapeutic Foster Care Placement Log & Pending Placements for January and February 2005 (Bates No. DHS 019258-019263).

Document Request No. 30: The current State Plan submitted pursuant to Title IV-B and Title IV-E of the federal Social Security Act, including but not limited to documents required by 42 U.S.C. §§622(b), 629(b), 671, 5106a(d) and 5106(e).

Response No. 30: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) Letters dated 11/18/03 & 8/12/03 to Thelma Brittain (Bates No. DHS 017231-017232);
- 2) Attachment C - Part II - FY 2003, ETV Program Request for Funds for \$222,448 (Bates No. DHS 017233); and
- 3) MDHS, DIFCS - "Child & Families Service Plan Annual Progress & Services Report, 2003" dated June 30, 2003 (Bates No. DHS 017234-017423).

Document Request No. 31: All statistical reports required to be generated pursuant to 42 U.S.C. §676.

Response No. 31: See Objections and Response to Document Request No. 5.

Document Request No. 32: All reports by Defendants to the Secretary of the federal Department of Health and Human Services pursuant to the Early and Periodic Screening, Diagnostic and Treatment Services Act, 42 U.S.C. §1396a(43)(D).

Response No. 32: Defendants do not maintain records compiled in the form requested in Document Request No. 32. The Mississippi Department of Health may have such reports.

Document Request No. 33: Any and all correspondence received from or set to the Department of Health and Human Services, Administration for Children and Families, from 2003 to the present regarding the 2004 Child and Family Services Review of the State of Mississippi's child welfare program and any related Program Improvement Plan (PIP).

Response No. 33: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. MDHS is in the process of finalizing its Program Improvement Plan and will produce such document when it is finalized and approved by USDHHS.

Without waiving objections, Defendants will produce the following:

- 1) Letter from United States Department of Health and Human Services (Carlis V. Williams, Regional Administrator to Donald R. Taylor, Executive Director, Mississippi Department of Human Services (Bates No. DHS 025779-025781);
- 2) MDHS/DFCS PIP TA Visit Agenda (Bates No. DHS 026059); and
- 3) Email from Carola Pike to Gloria Thornton and Billy Mangold, re: preparation for onsite TA visit (Bates No. DHS 026097-026098).

Document Request No. 34: Any and all Program Improvement Plans (PIPs) submitted to the Department of Health and Human Services, Administration for Children and Families subsequent to the 2004 Child and Family Services Review of the State of Mississippi's child welfare program.

Response No. 34: See Objections and Response to Document Request No. 33.

Document Request No. 35: Any and all documents relating to child maltreatment reports, child abuse and neglect investigations, critical incident reports, child fatality reports or special reviews regarding the abuse or neglect of children in DHS custody or of children in homes or facilities where children in DHS custody reside, including facilities not licensed by DHS.

Response No. 35: Defendants object to this Request to the extent that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving objections, Defendants will produce the following:

- 1) All such documents produced in Response to Document Request No. 5 above;
and
- 2) Count of Maltreated Children while in Custody in a Placement and Summary of Maltreated Children while in Custody in a Placement (Bates No. DHS 019057-019060) produced in response to Document Request No. 7 above.

Respectfully submitted,

HALEY BARBOUR, as Governor of the State of
Mississippi; DONALD TAYLOR, as Executive Director
of the Department of Human Services; and
BILLY MANGOLD as Director of the Division of
Family and Children's Services

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CERTIFICATE OF SERVICE

I, Betty A. Mallett, do hereby certify that I have this day served a copy of the foregoing on counsel of record by United States Mail, postage prepaid to:

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SO CERTIFIED, this the 4th day of March, 2005.


Betty A. Mallett

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COPY

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

OLIVIA Y., ET AL**PLAINTIFF****V.****CIVIL ACTION NO. 3:04CVZ51LN****HALEY BARBOUR, ET AL****DEFENDANTS****DEFENDANTS' PRIVILEGE LOG**

<u>Bates Label</u>	<u>Date</u>	<u>Description of Privileged Communication</u>
DHS 001564	undated	Note: Communication between MDHS and McGlinchey Stafford
DHS 003434	undated	Note: Communication between MDHS and McGlinchey Stafford
DHS 004054	undated	Note: Communication between MDHS and McGlinchey Stafford

Respectfully submitted,

HALEY BARBOUR, as Governor of the
State of Mississippi; DONALD TAYLOR,
as Executive Director of the Department of
Human Services; and Billy Mangold, as
Director of the Division of Family and
Children's Services

By: 

Betty A. Mallett

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